IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Crl.MC.No. 1932 of 2007()

CC.451/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KATTAKADA

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PETITIONER:

K. MADHAVAN, S/O.SANKARAN NAMBIAR,
MANAGING DIRECTOR, ASIANET NEWS,
ASIANET COMMUNICATIONS LTD., PULIYARAKONAM P.O.,
THIRUVANANTHAPURAM-695 873.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REP. BY STATE PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SRI.U.MUJEEB, S/O. YOUNNUS LABBA,
ADVOCATE, BISMILLAH HOUSE, KOOTTAPPU,
THEKKUMPARA P.O., AMBOORI VILLAGE,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1932 of 2007

Dated this the 18th day of July, 2007

O R D E R

The petitioner has come to this Court aggrieved by the course adopted by the learned Magistrate in issuing a warrant of arrest against the petitioner in C.C.No.451 of 2005 when he is not even an accused in that case. Reports of the learned Magistrate were called for. The 1st accused is shown to be one Mushtaq, whose address is given as Managing Director, Asia-net Plus, Asia-net Studio Complex, Puliyarakonam, Trivandrum. The petitioner is one Mr.Madhavan. He complained that a warrant of arrest has been issued by the learned Magistrate and the said warrant of arrest is attempted to be executed against him. The report of the learned Magistrate shows that the 1st accused is one Mushtaq and the petitioner Mr.Madhavan has not been arrayed as an accused so far. The learned Magistrate offers an explanation that the complainant while taking steps for issue of process against the accused has taken steps in an incomplete address (unnamed) against the 1st accused and that is no reason why a warrant of arrest has been issued in the name of the Managing Director which is sought to be executed against the petitioner.

2. The course followed by the learned Magistrate is absolutely incorrect. When cognizance has been taken against the

accused with the 1st accused described as Mr.Mushtaq, warrant of arrest cannot be issued or executed against any other person without appropriate orders of the learned Magistrate. In the instant case, the reports of the learned Magistrate show that there was no attempt to change the name of the 1st accused so far. That being so, the petitioner's grievance is correct that unjustifiably the warrant is sought to be executed against the petitioner.

3. This Crl.M.C is, in these circumstances, allowed. The learned Magistrate is directed to ensure that process is sent against the 1st accused only in the correct name and address as revealed from the complaint unless there be appropriate further orders passed in the case by the learned Magistrate in accordance with law.

(R.BASANT, JUDGE)

rtr/-